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Counsel for AVL Americas, Inc.

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11
	:	
GENERAL MOTORS CORP., <i>et al.</i> ,	:	Case No. 09-50026 (REG)
	:	
Debtors.	:	(Jointly Administered)
-----X		

**OBJECTION OF AVL AMERICAS, INC. TO NOTICE OF (I) DEBTORS' INTENT TO  
ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS, UNEXPIRED  
LEASES OF PERSONAL PROPERTY, AND UNEXPIRED LEASES OF  
NONRESIDENTIAL REAL PROPERTY  
AND (II) CURE AMOUNTS RELATED THERETO**

AVL Americas, Inc., formerly known as AVL Michigan Holding Corp., (hereinafter "AVL Americas"), a creditor and interested party, objects to the Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts and Unexpired Leases and (II) Cure Amounts Related Thereto ("Assumption Notice") served upon by the above captioned debtors and debtors-in-possession (collectively, the "Debtors") pursuant to the Court's Bidding Procedures Order (Docket No. 274). In support of the objection, AVL Americas states:

1. The Debtors purportedly mailed an Assumption Notice to AVL Americas on June 5, 2009 under its prior name AVL Michigan Holding Corp. AVL Americas did not receive the Assumption Notice until June 17, 2009, two days after the day that objections to the Assumption Notice were due.

2. Because AVL Americas did not receive the Assumption Notice until June 17, 2009, and filed its objection as promptly as possible under the circumstances, AVL Americas asks that this Court consider the objection timely filed.

3. The Debtors are parties to executory contracts with AVL Americas.

4. The Debtors have proposed assuming and assigning certain of AVL Americas' executory contracts (the "Designated Contracts")<sup>1</sup>.

5. AVL Americas is in the process of reviewing the Designated Contracts listed by GM on their contract notice website and has already found errors in the amounts owed under the Designated Contracts.

6. AVL Americas objects to the Assumption Notice to the extent that the Cure Amount identified by the Debtors is inaccurate. AVL Americas is owed a substantial sum for pre-petition goods and/or services provided to the Debtors. This amount is not fully reflected in the Debtors proposed Cure Amount.

7. AVL Americas also objects to the extent that the Debtors' Notice would allow payment of less than all pre-petition and post-petition obligations owed by Debtors to AVL Americas, as is required by § 365 of the Bankruptcy Code. *In re Burger Boys*, 94 F.3d 755, 763 (2<sup>nd</sup> Cir. 1996).

8. AVL Americas further objects to the extent Debtors' Notice would allow assumption of executory contracts without satisfying the requirements in § 365(b)(1). *See also Aetna Casualty & Surety Co. v. Gamel*, 45 B.R. 345, 348 (N.D.N.Y. 1984) (citing *In re Luce Industries, Inc.*, 8 B.R. 100, 104 (Bankr. S.D.N.Y. 1980) *rev'd on other grds.*, 14 B.R. 529 (S.D.N.Y. 1981)).

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<sup>1</sup> The Debtors have also proposed to assume, as Designated Contracts, the executory contracts of another AVL related entity, AVL Instrumentation & Test Systems, Inc. AVL Instrumentation & Test Systems, Inc. has already appeared before this Court and objected to an Assumption Notice it received (Docket #856).

9. AVL Americas reserves any and all rights arising from or associated with the Designated Contracts.

10. Because the legal and factual authority upon which AVL Americas relies are incorporated into this objection, AVL Americas respectfully requests that the Court deem satisfied or, alternatively, waive any requirement of the filing of a separate memorandum of law contained in Local Bankruptcy Rule 9013-1(a).

11. Because AVL Americas files this objection before having all necessary information regarding the Designated Contracts or the proposed Cure Amounts, AVL Americas reserves the right to amend this objection to include additional facts or arguments as may be determined by further investigation and also to raise such other and further objections to any proposed assumption and assignment or Cure Amounts with respect to AVL Americas' Designated Contracts.

WHEREFORE, AVL Americas respectfully requests that the Court enter an order (a) sustaining this objection in its entirety, (b) reserving its rights in connection with any Designated Contracts or Cure Amounts listed and (c) providing AVL Americas with such other and further relief as is appropriate.

Respectfully submitted,

**KERR, RUSSELL AND WEBER, PLC**

By: /s/ P. Warren Hunt

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Dated: June 17, 2009

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 17, 2009, I electronically filed the foregoing Objection to the Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts and Unexpired Leases and (II) Cure Amounts Related Thereto, and this Certificate of Service with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants. A copy of this document was also served on the following parties on June 17, 2009 via Federal Express mail:

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United States Bankruptcy Court  
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/s/ P. Warren Hunt  
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Dated: June 17, 2009